

By

Frank Madala

SB. No. 1334

A BILL TO BE ENTITLED

AN ACT

relating to prohibiting the mail order sales of hearing instruments.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1.01, Chapter 366, Acts of the 61st Legislature, Regular Session, 1969 (Article 4566-1.01, Vernon's Texas Civil Statutes), is amended by adding Subdivision (16) to read as follows:

(16) "Mail order sales" means the transfer of title or of the right to use by lease, bailment, or any other contract from any person whose primary business is the sale of hearing instruments, and who is located in a state of the United States other than this state.

SECTION 2. Section 1.01A, Chapter 366, Acts of the 61st Legislature, Regular Session, 1969 (Article 4566-1.01A, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1.01A. POLICY. It is the policy of this state to:

(1) safeguard the health and welfare of the communicatively handicapped people of this state from the dispensing of hearing instruments by unskilled or unprincipled practitioners including but not limited to mail order sales;

(2) establish and enforce standards of practitioner competency;

(3) provide regulatory authority over practitioners

1 offering hearing instrument dispensing services to the public; and
2 (4) ensure professional ethical conduct in the
3 dispensing of hearing aid devices or instruments.

4 SECTION 3. Section 1.15, Chapter 366, Acts of the 61st
5 Legislature, Regular Session, 1969 (Article 4566-1.15, Vernon's
6 Texas Civil Statutes), is amended to read as follows:

7 Sec. 1.15. PROHIBITED ACTS. (a) It is unlawful for any
8 person to:

9 (1) buy, sell, or fraudulently obtain a license to fit
10 and dispense hearing instruments or aid another in any of those
11 activities;

12 (2) alter a license to fit and dispense hearing
13 instruments with the intent to defraud;

14 (3) willfully make a false statement in an application
15 to the committee for a license, for a temporary training permit, or
16 for the renewal of a license;

17 (4) falsely impersonate any person licensed as a
18 fitter and dispenser of hearing instruments under this Act;

19 (5) offer or represent that the person is authorized
20 to fit and dispense hearing instruments, or use in connection with
21 the person's name any designation tending to imply that the person
22 is authorized to engage in the fitting and dispensing of hearing
23 instruments, if the person is not licensed under the provisions of
24 this Act;

25 (6) engage in the fitting and dispensing of hearing
26 instruments during the time the person's license shall be
27 cancelled, suspended, or revoked;

1 (7) dispense or fit a hearing instrument on any
2 individual who has ordered the hearing instrument or device by
3 mail[~~7--unless--the--person--dispensing--and--fitting--the--hearing~~
4 ~~instrument--or--device--is--licensed--under--this--Act--or--under--Chapter~~
5 ~~381,--Acts--of--the--68th--Legislature,--Regular--Session,--1983--(Article~~
6 ~~4512j,--Vernon's--Texas--Civil--Statutes),--and--its--subsequent~~
7 ~~amendments]; or~~

8 (8) offer for sale or sell [selling] hearing
9 instruments by mail.

10 (b) It is unlawful for any person not a licensed dispenser
11 of hearing instruments or a holder of a temporary training permit
12 or an apprentice permit provided in this Act, or a licensed
13 physician or surgeon to do any one act or thing or any combination
14 of acts or things named or described in this section.

15 SECTION 4. Section 9A, Chapter 381, Acts of the 68th
16 Legislature, Regular Session, 1983 (Article 4512j-9A Vernon's Texas
17 Civil Statutes), is amended by adding subdivision (e) to read as
18 follows:

19 (e) A licensed hearing aid fitter and dispenser or licensed
20 audiologist may not fit a hearing instrument on any individual who
21 has ordered the instrument or device by mail nor may a licensed
22 hearing aid fitter or dispenser or audiologist offer for sale or
23 sell hearing instruments by mail.

24 SECTION 5. This Act takes effect September 1, 1999.

25 SECTION 6. The importance of this legislation and the
26 crowded condition of the calendars in both houses create an
27 emergency and an imperative public necessity that the

1 constitutional rule requiring bills to be read on three several
2 days in each house be suspended, and this rule is hereby suspended.

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3-11-99
MAR 15 1999

Filed with the Secretary of the Senate

HEALTH SERVICES

Read and referred to Committee on _____

Reported favorably _____

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

Ordered not printed

Laid before the Senate

Senate and Constitutional Rules to permit consideration suspended by: { unanimous consent
_____ yeas, _____ nays

Read second time, _____, and ordered engrossed by: { unanimous consent
a viva voce vote
_____ yeas, _____ nays

Senate and Constitutional 3 Day Rule suspended by a vote of _____ yeas, _____ nays.

Read third time, _____, and passed by: { A viva voce vote
_____ yeas, _____ nays

SECRETARY OF THE SENATE

OTHER ACTION:

Engrossed

Sent to House

Engrossing Clerk _____

Received from the Senate

Read first time and referred to Committee on _____

Reported _____ favorably (as amended) (as substituted)

Sent to Committee on (Calendars) (Local & Consent Calendars)

Read second time (comm. subst.) (amended); passed to third reading (failed) by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

Constitutional rule requiring bills to be read on three several days suspended (failed to suspend)
by a vote of _____ yeas, _____ nays, _____ present, not voting.

Read third time (amended); finally passed (failed to pass) by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

Returned to Senate.

Returned from House without amendment.

Returned from House with _____ amendments.

Concurred in House amendments by a viva voce vote _____ yeas, _____ nays.

CHIEF CLERK OF THE HOUSE

_____ Refused to concur in House amendments and requested the appointment of a Conference Committee to adjust the differences.

_____ Senate conferees instructed.

_____ Senate conferees appointed: _____, Chairman; _____
_____, _____, and _____

_____ House granted Senate request. House conferees appointed: _____, Chairman;
_____, _____, _____

_____ Conference Committee Report read and filed with the Secretary of the Senate.

_____ Conference Committee Report adopted on the part of the House by: _____

{ a viva voce vote
_____ yeas, _____ nays

_____ Conference Committee Report adopted on the part of the Senate by:

{ a viva voce vote
_____ yeas, _____ nays

OTHER ACTION:

_____ Recommitted to Conference Committee

_____ Conferees discharged.

_____ Conference Committee Report failed of adoption by: _____

{ a viva voce vote
_____ yeas, _____ nays